
Bradley Holt & Jason Pelletier

1931 Hillview Road
Richmond, VT 05477

28th November 2023

To: Development Review Board

David Sunshine, Chair
Padraic Monks
David Schnakenberg
Matthew Dyer
Roger Pedersen

Cc:

Tyler Machia, Zoning Administrative Officer
Keith Osborne, Director of Planning and Zoning

Dear Town of Richmond Development Review Board:

This cover letter accompanies evidence submitted by us as non-applicant appellants in APE2023-01 before the Town of Richmond Development Review Board. The referenced evidence is submitted via email to Tyler Machia and Keith Osborne along with this cover letter on November 28th, 2023. We intend to incorporate this evidence into our testimony during the hearing for APE2023-01.

We submit the following 12 documents as evidence relevant to APE2023-01. For each document we have provided a short description (the respective headings below), a relevant date for the document, and one or more annotations. The oral arguments that we intend to present during the hearing will be supported by this evidence.

Email from Zoning Administrator Keith Osborne on Ag Maintenance for Culvert Crossings

File Name: *Fwd Hillview - Jul 12, 2021, 158 PM.pdf*

Date: July 12th, 2021

Note the comment from Keith Osborne: “The work being accomplished is considered Ag maintenance for culvert crossings and as such does not require a permit per our regulations.”

Note the comment from Keith Osborne: “However, speaking with the owner, he inquired about upgrading the entrance which would require a permit.”

Note that the landowner did subsequently apply for Access Permit #21-17 and associated Zoning Permit #2021-83 and that this culvert crossings work was done before the application dates for these permits and any work on these culvert crossings was not within the scope of these permits.

Initial Access Permit Application #21-17

File Name: *Access-Permit-21-17.pdf*

Application Date: August 9th, 2021

Note on page 1 the Town Highway Foreman comments: “Owner wants to phase in future development.”

Note on page 2 additional Highway Department comments: “Owner is only asking to upgrade existing driveway for future unknown lots. Assume this permit is for single family residence.”

Selectboard Meeting Minutes (September 7th, 2021)

File Name: *Selectboard-Meeting-Minutes-for-9-7-212.pdf*

Meeting Date: September 7th, 2021

Note on pages 10–12 discussion of agenda item “n) Consideration of approval of Access Permit # 21-17 for Parcel ID HV2427.”

Note on page 11 numerous concerns raised by members of the public.

Note on page 11: “that [Selectboard Member] Jay Furr thought having the access limited to a single-family residence would solve the issue.”

Note on page 11: “that there is more than one driveway now and the application states there is future expansion planned.”

Note on page 11: “that [Selectboard Member] Jay [Furr] said the application had ambitious plans, [Selectboard Member] Christine [Werneke] said the Selectboard could say the application could be limited to a single-family home and not endorse future lots. It would be part of the motion and written into the access permit. [Selectboard Member] Bard [Hill] said there is incongruity in the application between what the owner and the town Highway Foreman. [Selectboard Member] June [Heston] agreed with [Selectboard Member] Bard [Hill] and understood that the permit would be restrictive.”

Note on page 11: “[Selectboard Member June Heston] wondered if Tammy Avonda wanted to comment. Tammy Avonda said she wanted to build a barn and needed to improve the driveway to get trucks in.”

Note on pages 11–12: “that [Selectboard Member] David [Sander] said VLCT has guidance on issuing access permits and quoted their guidance and that the state guidance was also quoted. He felt pausing and getting some guidance on revoking an access permit was warranted. This will come back at the next meeting.”

Letter from Tammy and Bob Avonda to the Selectboard Regarding Access Permit #21-17

File Name: *Letter-from-Avonda.pdf*

Date: September 29th, 2021

Note the assertion: “The application is for a single lot with one residential building and one accessory building.”

Selectboard Meeting Minutes (October 4th, 2021)

File Name: *Special-Meeting-of-the-Selectboard-Minutes-for-10-4-211.pdf*

Meeting Date: October 4th, 2021

Note on page 2 discussion of agenda item “b) Executive Session, legal matter.”

Note on page 2: “[Selectboard Member] Christine [Werneke] noted there have been access permit process questions raised. She said an attorney had been consulted with and this must happen in executive session.”

Note on pages 2–3 discussion of agenda item “c) Consideration of approval of Access Permit #21-17 for Parcel ID HV2427.”

Note on page 2: “[Selectboard Member] Christine [Werneke] reported: that this was reviewed previously and there were questions raised, they have been discussed with the attorney and what the review shall include.”

Note on page 3: “[Selectboard Member] June [Heston] moved to approve Access Permit # 21-17 for Parcel ID HV2427 for access to one primary and one accessory structure only. Applicant must reapply before this access may be used to serve additional structures. Landowner must close any pre-existing access; Jay [Furr] seconded. Roll Call Vote: Bard [Hill], David [Sander], June [Heston], Jay [Furr], and Christine [Werneke] voted affirmatively. Motion passed.”

Zoning Permit #2021-83 as Approved

File Name: *HV2427 - Zoning Permit - Driveway - 2021-83.pdf*

Approval Date: November 1st, 2021

Note on page 3 the two conditions of approval by the Selectboard for associated Access Permit #21-17:

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- “For access to one primary and one accessory structure only. Applicant must reapply before this access may be used to serve additional structures.”
 - “Land owner must close any pre-existing access.”

Memo on Enforcement of Conditions of Zoning Permit #2021-83 from Zoning Administrator Tyler Machia

File Name: *HV2427 Driveway Memo Holt.pdf*

Date: January 31st, 2023 (on or about)

Note on page 2: “As the work on the driveway that is the subject of Zoning Permit 2021-83 has not been completed Hillview Heights can continue to use the second access while construction to upgrade the primary access that is the subject of Zoning Permit 2021-83 because the improved, primary access cannot be used until construction is complete.”

Note on page 2: “In regards to a potential future subdivision, until Hillview Heights or the Avondas submit a subdivision application that is approved by the DRB and a survey plat mylar is recorded, no subdivision has occurred, and future, unapproved plans have no bearing on any local permits.”

Note on page 2: “At this time, it is my opinion that Hillview Heights is in compliance with the conditions laid out in Zoning Permit 2021-83. So long as the second access is closed by the time construction on the primary access is complete or the permit has expired, then Hillview Heights will remain in compliance.”

Email Response from Zoning Administrator Tyler Machia in Regards to Work Underway at the Hillview Heights Property

File Name: *Work Underway at Hillview Heights Property - 2023-07-14.pdf*

Date: July 14th, 2023

Note the comment from Tyler Machia: “...the work you are hearing is for a barn for the flower farm.”

Note the comment from Tyler Machia: “The Avondas Contacted me last friday [sic] to enforme [sic] me that they intended to begin construction of the barn.”

Note the *Avonda, Barn Farm Strucutre, HV2427.pdf* attachment is a Notice of Intent to Build a Farm Structure for the barn in question, which we have not included since the Notice details are not relevant to this appeal.

Email from Bob Avonda to Zoning Administrator Tyler Machia Requesting a 12-month Extension of Access Permit #21-17

File Name: *Avonda Permit Extension Email.pdf*

Date: October 17th, 2023

Note the email subject line: "Access Permit # 21-17, Parcel ID HV2427."

Note the comment from Bob Avonda: "We are talking to excavators now about starting in the Spring when the road posting is lifted."

Note the comment from Bob Avonda: "Once this work is started we will abide by all approval stipulations."

Note that the email requests a 12-month extension of Access Permit #21-17 but makes no reference to Zoning Permit #2021-83.

Letter in Which Zoning Administrator Tyler Machia Issued a One-time 12-month Extension of Zoning Permit #2021-83

File Name: *Avonda, Permit Extension Letter, 2021-83-HV2427.pdf*

Date: October 18th, 2023 (on or about)

Note the comment from Tyler Machia: "On October 17 2023, I received an email requesting an extension of permit 2021-83."

Note the comment from Tyler Machia: "You go on to note in your email that you are in talks with excavators and that you plan to start in the spring once the road is no longer posted."

Note the comment from Tyler Machia: "Section 5.3.2 allows the Zoning Administrator the opportunity to issue an extension of a zoning permit if the request is made before the permit expired."

Photograph of Unimproved Subject Driveway and Access Road

File Name: *Unimproved Subject Driveway.jpg*

Date of Photograph: November 3rd, 2023

Note that this photograph documents the condition of the subject driveway and access road and demonstrates that no upgrades have yet to be started.

Email Response from Zoning Administrator Tyler Machia to Our Public Records Request Related to his Decision to Extend Zoning Permit #2021-83

File Name: *Public Records Request - Decision to Issue Extension of Zoning Permit #2021-83 - 2023-11-21.pdf*

Date: November 21st, 2023

Note the comment from Tyler Machia: “As the custodian of the records requested, I have provided a copy of the one record requested in your first bullet point.”

Note that the sole attachment in the records request response is the *Avonda Permit Extension Email.pdf* document (referenced above).

Note the comment from Tyler Machia: “I have searched for other responsive records to the requests in your second through seventh bullet points, and have determined that there are no other records responsive to your requests.”

Note the second through seventh bullet points in our public records request:

- “Any other emails or correspondences with Robert or Tammy Avonda, or their representatives, related to or leading to your decision”
- “Any other emails or correspondences with any other parties related to or leading to your decision”
- “Any evidence available to you related to work, time and/or expenditures invested in the project for which Zoning Permit #2021-83 was issued”
- “Any evidence available to you that demonstrates a good faith intent to presently commence upon the permitted use for which Zoning Permit #2021-83 was issued”
- “Any evidence available to you that in your judgement demonstrates good cause for issuing your decision”
- “Any other records available to you that in your judgement are relevant to your decision”

Sincerely,



Bradley Holt



Jason Pelletier